

SOUTHERN ELECTRICAL RETIREMENT FUND,
Plaintiff,
v.
SPIGENER ELECTRIC COMPANY, INC. and
SHERRILL KEITH SPIGENER,
Defendant.

V.

COMPLAINT

2. After May 26, 2005, Defendants have failed or refused to submit payroll reports and make payments to Plaintiff, and/or filed such reports and payments on a delinquent basis and, as a result, Defendants owe Plaintiff contributions required by 29 U.S.C. §1145; and, due to the failure of Defendants to submit prospective payroll reports, Plaintiff is unable to determine the amount of unpaid contributions.

3. Sherrill Keith Spigener controls the financial affairs of Spigener Electric, Inc. and is an ERISA fiduciary personally liable under 29 U.S.C. §§ 1103, 1104 and 1109 for using funds of Defendants to pay other creditors instead of Plaintiff.

4. Defendants owe liquidated damages to the Plaintiff, and have caused Plaintiff to incur attorney fees and other costs.

5. Copies of this complaint will be served upon the Secretary of Labor and the Secretary of the Treasury by certified mail in accordance with 29 U.S.C. § 1132(h).

WHEREFORE, Plaintiff prays that the Court enter an order and grant appropriate equitable relief requiring Defendants to comply with 29 U.S.C. § 1145 and for a judgment against Defendants under 29 U.S.C. § 1132(g)(2).

Respectfully submitted,

/s/R. Jan Jennings

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